

Now, the exclusionary rule has only been effective in Maryland since 1961 when in the case of *Mapp v. Ohio* the Supreme Court dictated that the states would have to follow it. In the 200 years of the Fourth Amendment's existence, it was not until 1961 that the citizens of Maryland by fiat of the Supreme Court actually had to accept and live by it. And in all felony cases we had a statute known as the Bouse Act which forbade the introduction of evidence illegally seized in misdemeanor cases. However, its effect was very limiting. This proposal would carry the concept of the exclusionary rule not only into criminal cases, but into any cases where a court or a State agency acted. It is extremely important in protecting the right of privacy because it would take a great deal of the impetus out of the invasions of privacy which occur day in and day out.

THE CHAIRMAN: Delegate Bothe, you have only three minutes left for questions.

DELEGATE BOTHE: I will have to answer my own questions, I see.

What this would do would be to forbid the State in any respect to use illegally seized evidence against anyone in State proceedings.

Now, I will stop there, because I suppose there may be some questions. It is not a simple concept.

THE CHAIRMAN: Are there any questions of the sponsor of the amendment?

Delegate Rybczynski.

DELEGATE RYBCZYNSKI: Delegate Bothe, in the event that a place of business, such as a restaurant or a night club were raided and found to be engaged in illicit operations, whatever they might be, and were dismissed in criminal court, is it the intent of this amendment that this same licensee would not be brought before the liquor license bureau, for instance, to answer before the liquor board?

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: Delegate Rybczynski, you are assuming, of course, that the raid was an illegal raid. There are many that are not.

THE CHAIRMAN: Delegate Rybczynski.

DELEGATE RYBCZYNSKI: For the purposes of this question that is true. I am asking you the question that because of the failure of the constable to properly serve the warrant, as you said a little while ago, the charge is dismissed in criminal court.

By this amendment would it be true that that same licensee could not be brought before the licensing agency which issued the license in the first place?

DELEGATE BOTHE: You are obviously trying to create the impression that if the warrant were not properly served it would constitute an illegal search. As a better lawyer than I am, you know this not so.

The reasonableness of search and seizure would be the question before the administrative agency. And the fact that the criminal proceeding found that the evidence was inadmissible would not necessarily be binding upon the liquor board or whatever agency it was who determined whether the evidence could be used against the licensee.

THE CHAIRMAN: Delegate Byrnes.

Delegate Bothe has only one minute left. There are two people with questions, including yours.

DELEGATE BYRNES: Would you leave to judicial development the question of whether or not this would extend to the indirect results of illegal searches and seizures, the Wong Sun doctrine, to say it to you very quickly?

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: A great deal of this would have to be left to judicial interpretation. It is only a question, as the fourth amendment has always been, what is an illegal and unreasonable search?

This amendment does not propose to go into all that detail. It would have to be a judicial question.

THE CHAIRMAN: Delegate Hargrove.

DELEGATE HARGROVE: Is it your intention in this amendment to give to private citizens more of a right to invade the privacy than to the State in a civil case?

DELEGATE BOTHE: Are you speaking now of the fact that a private citizen would probably not be able to obtain a warrant?

DELEGATE HARGROVE: No. You do not have to obtain a warrant under this provision. If you need one, as you know, you can effect a search without a warrant.

What I am referring to is where the State acts as an individual in a civil proceeding. Would you bar the State in obtaining the evidence because of this amendment, whereas the private citizen could